

AMENDED IN SENATE AUGUST 7, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2748

**Introduced by Committee on Environmental Safety and Toxic
Materials (Assembly Members Alejo (Chair), Bloom, Stone, and
Ting)**

(Coauthor: Assembly Member Lowenthal)

March 6, 2014

An act to amend Sections 25217.2, 25507, and 25513 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 2748, as amended, Committee on Environmental Safety and Toxic Materials. Hazardous waste: business plans.

(1) Existing law generally prohibits any person from disposing of latex paint, unless authorized, but allows recyclable latex paint to be accepted at any location if certain requirements are met, including that the owners or operators of the location have a business plan that meets specified requirements.

This bill would repeal the requirement that the owner or operator of the location have such a business plan in order to accept recyclable latex paint.

(2) Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program, including a statewide information management system, for purposes of receiving data collected by unified program agencies. A city or local agency that meets specified

requirements is authorized to apply to the secretary to implement the unified program and be certified as a certified unified program agency (CUPA), and every county is required to apply to the secretary to be certified to implement the unified program. Existing law also requires each CUPA to institute a single-fee system, with a surcharge on each person regulated by the unified program to cover the necessary and reasonable costs of the state agencies in carrying out their responsibilities in the unified hazardous waste and hazardous materials management regulatory program.

Existing law requires the CUPA to implement and enforce provisions that require a business that handles a hazardous material to establish and implement a business plan. Existing law requires the business plan to be electronically submitted to the statewide information management system and requires the local agency to review and determine whether the business plan satisfies certain requirements. A person who knowingly violates this provision is guilty of a misdemeanor.

The California Integrated Waste Management Act of 1989, requires a manufacturer of architectural paint or designated stewardship organization to submit to the Department of Resources Recycling and Recovery an architectural paint stewardship plan to develop and implement a recovery program to manage the end of life of postconsumer architectural paint.

This bill would require a business that handles paint that will be recycled or managed under an architectural paint recovery program approved by the department to establish and implement a business plan only if the business handles 10,000 pounds of solid hazardous materials or 1,000 gallons of liquid hazardous materials. The bill would prohibit the CUPA from imposing a fee upon a business that is implementing an approved architectural paint recovery program and that is exempt from the business plan requirements for the cost of processing that exemption.

The bill would incorporate changes to Section 25507 of the Health and Safety Code proposed by both this bill and SB 1261, which would only become operative if both bills are enacted and become effective on or before January 1, 2015, and this bill is enacted after SB 1261.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25217.2 of the Health and Safety Code
2 is amended to read:

3 25217.2. (a) Recyclable latex paint may be accepted at any
4 location including, but not limited to, a permanent household
5 hazardous waste collection facility in accordance with subdivision
6 (b), if all of the following conditions are met:

7 (1) The location manages the recyclable latex paint in
8 accordance with all applicable latex paint product management
9 procedures specified by federal, state, or local law or regulation
10 that include, at a minimum, that the recyclable latex paint is stored
11 and handled in a manner that minimizes the chance of exposing
12 the handler and the environment to potentially hazardous
13 constituents that may be in, or have been incidentally added to,
14 the recyclable latex paint.

15 (2) The recyclable latex paint is still in liquid form and is in its
16 original packaging or is in a closed container that is clearly labeled.

17 (3) Any latex paint that is accepted as recyclable by the location
18 and that is later discovered to be nonrecyclable shall be deemed
19 to be a waste generated at the location where the discovery is made
20 and the latex paint shall be managed as a waste in accordance with
21 this chapter.

22 (4) If the recyclable latex paint is not excluded or exempted
23 from regulation under Chapter I (commencing with Section 1.1)
24 of Title 40 of the Code of Federal Regulations, the location meets
25 all applicable federal requirements.

26 (5) The recyclable latex paint is stored for no longer than 180
27 days.

28 (b) (1) For purposes of this subdivision the following definitions
29 shall apply:

30 (A) “CESQG” means a conditionally exempt small quantity
31 generator, as specified in subdivision (a) of Section 25218.1.

32 (B) “Permanent household hazardous waste collection facility”
33 has the same meaning as defined in subdivision (h) of Section
34 25218.1.

35 (2) A permanent household hazardous waste collection facility
36 that is authorized to accept hazardous waste from a CESQG
37 pursuant to Section 25218.3 may accept recyclable latex paint
38 from any generator in accordance with this article if the permanent

1 household hazardous waste collection facility does all of the
2 following:

3 (A) Complies with subdivision (a).

4 (B) Sends the recyclable latex paint, for recycling, to a latex
5 paint recycling facility operating pursuant to this article.

6 (C) Maintains a monthly log of the volume of latex paint
7 collected from each generator and submits that information
8 annually with the report submitted pursuant to Section 25218.9
9 for household hazardous waste collected from household hazardous
10 waste generators.

11 (3) A permanent household hazardous waste collection facility
12 that takes the actions specified in paragraph (2) is not subject to
13 subdivision (b) of Section 25218.3.

14 (4) A permanent household waste collection facility may take
15 the action specified in paragraph (2) notwithstanding any permit
16 condition imposed upon the facility, a regulation adopted by the
17 department to ensure a household hazardous waste collection
18 facility does not accept hazardous waste from a commercial
19 generator other than a CESQG, or the status of the generator.

20 SEC. 2. Section 25507 of the Health and Safety Code is
21 amended to read:

22 25507. (a) Except as provided in this article, a business shall
23 establish and implement a business plan for emergency response
24 to a release or threatened release of a hazardous material in
25 accordance with the standards prescribed in the regulations adopted
26 pursuant to Section 25503 if the business meets any of the
27 following conditions:

28 (1) The business handles a hazardous material or a mixture
29 containing a hazardous material that has a quantity at any one time
30 during the reporting year that is equal to, or greater than, 55 gallons
31 for materials that are liquids, 500 pounds for solids, or 200 cubic
32 feet for compressed gas. The physical state and quantity present
33 of mixtures shall be determined by the physical state of the mixture
34 as whole, not individual components, at standard temperature and
35 pressure.

36 (2) The business is required to submit chemical inventory
37 information pursuant to Section 11022 of Title 42 of the United
38 States Code.

39 (3) The business handles at any one time during the reporting
40 year an amount of a hazardous material that is equal to, or greater

1 than the threshold planning quantity, under both of the following
2 conditions:

3 (A) The hazardous material is an extremely hazardous substance,
4 as defined in Section 355.61 of Title 40 of the Code of Federal
5 Regulations.

6 (B) The threshold planning quantity for that extremely hazardous
7 substance listed in Appendices A and B of Part 355 (commencing
8 with Section 355.1) of Subchapter J of Chapter I of Title 40 of the
9 Code of Federal Regulations is less than 500 pounds.

10 (4) (A) Except as provided in subparagraph (B), a business
11 handles at any one time during the reporting year a total weight
12 of 5,000 pounds for solids or a total volume of 550 gallons for
13 liquids, if the hazardous material is a solid or liquid substance that
14 is classified as a hazard for purposes of Section 5194 of Title 8 of
15 the California Code of Regulations solely as an irritant or sensitizer,
16 unless the unified program agency finds, and provides notice to
17 the business handling the product, that the handling of lesser
18 quantities of that hazardous material requires the submission of a
19 business plan, or any portion of a business plan, in response to
20 public health, safety, or environmental concerns.

21 (B) If the hazardous material handled by the business is a paint
22 that will be recycled or otherwise managed under an architectural
23 paint recovery program approved by the Department of Resources
24 Recovery and Recycling pursuant to Chapter 5 (commencing with
25 Section 48700) of Part 7 of Division 30 of the Public Resources
26 Code, the business is required to establish and implement a
27 business plan only if the business handles at any one time during
28 the reporting year a total weight of 10,000 pounds of solid
29 hazardous materials or a total volume of 1,000 gallons of liquid
30 hazardous materials.

31 (5) (A) The business handles at any one time during the
32 reporting year a total of 1,000 cubic feet, if the hazardous material
33 is a compressed gas and is classified as a hazard for the purposes
34 of Section 5194 of Title 8 of the California Code of Regulations
35 solely as a compressed gas, unless the unified program agency
36 finds, and provides notice to the business handling the product,
37 that the handling of lesser quantities of that hazardous material
38 requires the submission of a business plan, or any portion thereof,
39 in response to public health, safety, or environmental concerns.

1 (B) The unified program agency shall make the findings required
2 by subparagraph (A) in consultation with the local fire chief.

3 (C) The hazardous materials subject to subparagraph (A) include
4 a gas for which the only health and physical hazards are simple
5 asphyxiation and the release of pressure.

6 (D) The hazardous materials subject to subparagraph (A) do
7 not include gases in a cryogenic state.

8 (6) The business handles a radioactive material at any one time
9 during the reporting year that is handled in quantities for which
10 an emergency plan is required to be adopted pursuant to Part 30
11 (commencing with Section 30.1), Part 40 (commencing with
12 Section 40.1), or Part 70 (commencing with Section 70.1), of
13 Chapter 1 of Title 10 of the Code of Federal Regulations, or
14 pursuant to any regulations adopted by the state in accordance with
15 those regulations.

16 (7) The business handles perchlorate material, as defined in
17 subdivision (c) of Section 25210.5, in a quantity at any one time
18 during the reporting year that is equal to, or greater than, the
19 thresholds listed in paragraph (1).

20 (b) Oxygen, nitrogen, and nitrous oxide, ordinarily maintained
21 by a physician, dentist, podiatrist, veterinarian, or pharmacist, at
22 his or her office or place of business, stored at each office or place
23 of business in quantities of not more than 1,000 cubic feet of each
24 material at any one time, are exempt from this section and from
25 Section 25506. The unified program agency may require a one-time
26 inventory of these materials for a fee not to exceed fifty dollars
27 (\$50) to pay for the costs incurred by the agency in processing the
28 inventory forms.

29 (c) (1) Lubricating oil is exempt from this section and Sections
30 25506 and 25508, for a single business facility, if the total volume
31 of each type of lubricating oil handled at that facility does not
32 exceed 55 gallons and the total volume of all types of lubricating
33 oil handled at that facility does not exceed 275 gallons, at any one
34 time.

35 (2) For purposes of this paragraph, "lubricating oil" means oil
36 intended for use in an internal combustion crankcase, or the
37 transmission, gearbox, differential, or hydraulic system of an
38 automobile, bus, truck, vessel, airplane, heavy equipment, or other
39 machinery powered by an internal combustion or electric powered

1 engine. "Lubricating oil" does not include used oil, as defined in
2 subdivision (a) of Section 25250.1.

3 (d) Oil-filled electrical equipment that is not contiguous to an
4 electric facility is exempt from this section and Sections 25506
5 and 25508 if the aggregate capacity is less than 1,320 gallons.

6 (e) Hazardous material contained solely in a consumer product
7 for direct distribution to, and use by, the general public is exempt
8 from the business plan requirements of this article unless the
9 unified program agency has found, and has provided notice to the
10 business handling the product, that the handling of certain
11 quantities of the product requires the submission of a business
12 plan, or any portion thereof, in response to public health, safety,
13 or environmental concerns.

14 (f) In addition to the authority specified in subdivision (h), the
15 governing body of the unified program agency may, in exceptional
16 circumstances, following notice and public hearing, exempt a
17 hazardous substance specified in subdivision (n) of Section 25501
18 from Section 25506, if it is found that the hazardous substance
19 would not pose a present or potential danger to the environment
20 or to human health and safety if the hazardous substance was
21 released into the environment. The unified program agency shall
22 send a notice to the office and the secretary within 15 days from
23 the effective date of any exemption granted pursuant to this
24 subdivision.

25 (g) The unified program agency, upon application by a handler,
26 may exempt the handler, under conditions that the unified program
27 agency determines to be proper, from any portion of the
28 requirements to establish and maintain a business plan, upon a
29 written finding that the exemption would not pose a significant
30 present or potential hazard to human health or safety or to the
31 environment, or affect the ability of the unified program agency
32 and emergency rescue personnel to effectively respond to the
33 release of a hazardous material, and that there are unusual
34 circumstances justifying the exemption. The unified program
35 agency shall specify in writing the basis for any exemption under
36 this subdivision.

37 (h) The unified program agency, upon application by a handler,
38 may exempt a hazardous material from the inventory provisions
39 of this article upon proof that the material does not pose a
40 significant present or potential hazard to human health and safety

1 or to the environment if released into the workplace or
2 environment. The unified program agency shall specify in writing
3 the basis for any exemption under this subdivision.

4 (i) The unified program agency shall adopt procedures to provide
5 for public input when approving applications submitted pursuant
6 to subdivisions (g) and (h).

7 *SEC. 2.5. Section 25507 of the Health and Safety Code is*
8 *amended to read:*

9 25507. (a) Except as provided in this article, a ~~business facility~~
10 shall establish and implement a business plan for emergency
11 response to a release or threatened release of a hazardous material
12 in accordance with the standards prescribed in the regulations
13 adopted pursuant to Section 25503 if the ~~business facility~~ meets
14 any of the following conditions:

15 (1) (A) The ~~business facility~~ handles a hazardous material or
16 a mixture containing a hazardous material that has a quantity at
17 any one time during the reporting year that is equal to, or greater
18 than, 55 gallons for materials that are liquids, 500 pounds for solids,
19 or 200 cubic feet for compressed ~~gas~~ gas, *as defined in subdivision*
20 *(i) of Section 25501.* The physical state and quantity present of
21 mixtures shall be determined by the physical state of the mixture
22 as a whole, not individual components, at standard temperature
23 and pressure.

24 (B) *For the purpose of this section, for compressed gases, if a*
25 *hazardous material or mixture is determined to exceed threshold*
26 *quantities at standard temperature and pressure, it shall be*
27 *reported in the physical state at which it is stored. If the material*
28 *is an extremely hazardous substance, as defined in Section 355.61*
29 *of Title 40 of the Code of Federal Regulations, all amounts shall*
30 *be reported in pounds.*

31 (2) The ~~business facility~~ is required to submit chemical inventory
32 information pursuant to Section 11022 of Title 42 of the United
33 States Code.

34 (3) The ~~business facility~~ handles at any one time during the
35 reporting year an amount of a hazardous material that is equal to,
36 or greater than the threshold planning quantity, under both of the
37 following conditions:

38 (A) The hazardous material is an extremely hazardous substance,
39 as defined in Section 355.61 of Title 40 of the Code of Federal
40 Regulations.

(B) The threshold planning quantity for that extremely hazardous substance listed in Appendices A and B of Part 355 (commencing with Section 355.1) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations is less than 500 pounds.

(4) (A) ~~The business~~ *Except as provided in subparagraph (B), the facility* handles at any one time during the reporting year a total weight of 5,000 pounds for solids or a total volume of 550 gallons for liquids, if the hazardous material is a solid or liquid substance that is classified as a hazard for purposes of Section 5194 of Title 8 of the California Code of Regulations solely as an irritant or sensitizer, unless the unified program agency finds, and provides notice to the business handling the product, that the handling of lesser quantities of that hazardous material requires the submission of a business plan, or any portion of a business plan, in response to public health, safety, or environmental concerns *sensitizer*.

~~(B) The unified program agency shall make the findings required by subparagraph (A) in consultation with the local fire chief.~~

(B) If the hazardous material handled by the facility is a paint that will be recycled or otherwise managed under an architectural paint recovery program approved by the Department of Resources Recovery and Recycling pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code, the facility is required to establish and implement a business plan only if the facility handles at any one time during the reporting year a total weight of 10,000 pounds of solid hazardous materials or a total volume of 1,000 gallons of liquid hazardous materials.

(5) ~~(A) The business facility~~ handles at any one time during the reporting year ~~a total~~ *cryogenic, refrigerated, or compressed gas in a quantity* of 1,000 cubic feet, if the hazardous material is ~~a compressed gas and is classified as a hazard for the purposes of Section 5194 of Title 8 of the California Code of Regulations solely as a compressed gas, unless the unified program agency finds, and provides notice to the business handling the product, that the handling of lesser quantities of that hazardous material requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.~~ *feet or more at standard temperature and pressure, if the gas is any of the following:*

~~(B) The unified program agency shall make the findings required by subparagraph (A) in consultation with the local fire chief.~~

~~(C) The hazardous materials subject to subparagraph (A) include a gas for which the only health and physical hazards are simple asphyxiation and~~

~~(D) The hazardous materials subject to subparagraph (A) do not include gases in a cryogenic state.~~

(A) Classified as a hazard for the purposes of Section 5194 of Title 8 of the California Code of Regulations only for hazards due to simple asphyxiation or the release of pressure.

(B) Oxygen, nitrogen, and nitrous oxide ordinarily maintained by a physician, dentist, podiatrist, veterinarian, pharmacist, or emergency medical service provider at his or her place of business.

(C) Carbon dioxide.

(D) Nonflammable refrigerant gases, as defined in the California Fire Code, that are used in refrigeration systems.

(E) Gases used in closed fire suppression systems.

~~(6) The business facility handles a radioactive material at any one time during the reporting year that is handled in quantities for which an emergency plan is required to be adopted~~ *considered pursuant to Schedule C (Section 30.72) of Part 30 (commencing with Section 30.1), Part 40 (commencing with Section 40.1), or Part 70 (commencing with Section 70.1), of Chapter 1 of Title 10 of the Code of Federal Regulations, or pursuant to any regulations adopted by the state in accordance with those regulations.*

~~(7) The business facility handles perchlorate material, as defined in subdivision (c) of Section 25210.5, in a quantity at any one time during the reporting year that is equal to, or greater than, the thresholds listed in paragraph (1).~~

~~(b) Oxygen, nitrogen, and nitrous oxide, ordinarily maintained by a physician, dentist, podiatrist, veterinarian, or pharmacist, at his or her office or place of business, stored at each office or place of business in quantities of not more than 1,000 cubic feet of each material at any one time, are exempt from this section and from Section 25506. The unified program agency may require a one-time inventory of these materials for a fee not to exceed fifty dollars (\$50) to pay for the costs incurred by the agency in processing the inventory forms.~~

(b) The following hazardous materials are exempt from the requirements of this section:

1 (1) Refrigerant gases, other than ammonia or flammable gas
2 in a closed cooling system, that are used for comfort or space
3 cooling for computer rooms.

4 (2) Compressed air in cylinders, bottles, and tanks used by fire
5 departments and other emergency response organizations for the
6 purpose of emergency response and safety.

7 ~~(e) (1)~~

8 (3) (A) ~~Lubricating oil is exempt from this section and Sections~~
9 ~~25506 and 25508, for a single business facility oil~~, if the total
10 volume of each type of lubricating oil handled at ~~that~~ a facility
11 does not exceed 55 gallons and the total volume of all types of
12 lubricating oil handled at that facility does not exceed 275 gallons,
13 at any one time.

14 ~~(2)~~

15 (B) For purposes of this paragraph, “lubricating oil” means oil
16 intended for use in an internal combustion crankcase, or the
17 transmission, gearbox, differential, or hydraulic system of an
18 automobile, bus, truck, vessel, airplane, heavy equipment, or other
19 machinery powered by an internal combustion or electric powered
20 engine. “Lubricating oil” does not include used oil, as defined in
21 subdivision (a) of Section 25250.1.

22 (4) Both of the following, if the aggregate storage capacity of
23 oil at the facility is less than 1,320 gallons:

24 (A) Fluid in a hydraulic system.

25 ~~(d)~~

26 (B) Oil-filled electrical equipment that is not contiguous to an
27 electric facility ~~is exempt from this section and Sections 25506~~
28 ~~and 25508 if the aggregate capacity is less than 1,320 gallons~~
29 ~~facility.~~

30 (5) Hazardous material contained solely in a consumer product,
31 handled at, and found in, a retail establishment and intended for
32 sale to, and for the use by, the public. The exemption provided for
33 in this paragraph shall not apply to a consumer product handled
34 at the facility which manufactures that product, or a separate
35 warehouse or distribution center of that facility, or where a product
36 is dispensed on the retail premises.

37 ~~(e) Hazardous material contained solely in a consumer product~~
38 ~~for direct distribution to, and use by, the general public is exempt~~
39 ~~from the business plan requirements of this article unless the~~
40 ~~unified program agency has found, and has provided~~

(6) Propane that is for on-premises use, storage, or both, in an amount not to exceed 500 gallons, that is for the sole purpose of cooking, heating employee work areas, and heating water within that business, unless the uniform program agency finds, and provides notice to the business handling the product propane, that the handling of certain quantities of the product the on-premise propane requires the submission of a business plan, or any portion thereof of a business plan, in response to public health, safety, or environmental concerns.

~~(f)~~

(c) In addition to the authority specified in subdivision ~~(h)~~ (e), the governing body of the unified program agency may, in exceptional circumstances, following notice and public hearing, exempt a hazardous substance material specified in subdivision ~~(n)~~ of Section 25501 from Section 25506, if it is found that the hazardous substance material would not pose a present or potential danger to the environment or to human health and safety if the hazardous substance material was released into the environment. The unified program agency shall send a notice to the office and the secretary within 15 days from the effective date of any exemption granted pursuant to this subdivision.

~~(g)~~

(d) The unified program agency, upon application by a handler, may exempt the handler, under conditions that the unified program agency determines to be proper, from any portion of the requirements to establish and maintain a business plan, upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment, or affect the ability of the unified program agency and emergency rescue response personnel to effectively respond to the release of a hazardous material, and that there are unusual circumstances justifying the exemption. The unified program agency shall specify in writing the basis for any exemption under this subdivision.

~~(h)~~

(e) The unified program agency, upon application by a handler, may exempt a hazardous material from the inventory provisions of this article upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or

1 environment. The unified program agency shall specify in writing
2 the basis for any exemption under this subdivision.

3 (i)

4 (f) The unified program agency shall adopt procedures to provide
5 for public input when approving applications submitted pursuant
6 to subdivisions ~~(g)~~ (d) and ~~(h)~~ (e).

7 SEC. 3. Section 25513 of the Health and Safety Code is
8 amended to read:

9 25513. (a) Each administering county or city may, upon a
10 majority vote of the governing body, adopt a schedule of fees to
11 be collected from each business required to submit a business plan
12 pursuant to this article that is within its jurisdiction. The governing
13 body may provide for the waiver of fees when a business, as
14 defined in paragraph (3), (4), or (5) of subdivision (c) of Section
15 25501, submits a business plan. The fee shall be set in an amount
16 sufficient to pay only those costs incurred by the unified program
17 agency in carrying out this article. In determining the fee schedule,
18 the unified program agency shall consider the volume and degree
19 of hazard potential of the hazardous materials handled by the
20 businesses subject to this article.

21 (b) A unified program agency shall not impose a fee upon a
22 business that is implementing an architectural paint recovery
23 program approved by the Department of Resources Recovery and
24 Recycling pursuant to Chapter 5 (commencing with Section 48700)
25 of Part 7 of Division 30 of the Public Resources Code and that is
26 exempt from the business plan requirements pursuant to
27 subparagraph (B) of paragraph (4) of subdivision (a) of Section
28 25507, for the cost of processing that exemption.

29 SEC. 4. *Section 2.5 of this bill incorporates amendments to*
30 *Section 25507 of the Health and Safety Code proposed by both*
31 *this bill and SB 1261. It shall only become operative if (1) both*
32 *bills are enacted and become effective on or before January 1,*
33 *2015, (2) each bill amends Section 25507 of the Health and Safety*
34 *Code, and (3) this bill is enacted after SB 1261, in which case*
35 *Section 2 of this bill shall not become operative.*

O